

EXHIBIT H

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark OfficeAddress: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

CONTROL NUMBER	FILING DATE	PATENT UNDER REEXAMINATION	ATTORNEY DOCKET NO.
90/004,771	09/30/97	4963796	33179/165596

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BSM2/1120

EXAMINER

BERMAN, J

ART UNIT

PAPER NUMBER

2506

DATE MAILED:

11/20/97

ORDER GRANTING/DENYING REQUEST FOR REEXAMINATION

The request for reexamination has been considered. Identification of the claims, the references relied on, and the rationale supporting the determination are attached.

Attachment(s): ☐ PTO-892, ☒ PTO-1449, ☐ Other: _____

1. ☒ The request for reexamination is GRANTED.

RESPONSE TIMES ARE SET TO EXPIRE AS FOLLOWS:

For Patent Owner's Statement (optional): TWO MONTHS from the mailing date hereof. 37 CFR 1.530(b).
EXTENSIONS OF TIME ARE GOVERNED BY 37 CFR 1.550(c).

For Requester's reply (optional): TWO MONTHS from the date of service of any patent owner's statement.
37 CFR 1.535. NO EXTENSION OF TIME IS PERMITTED. If patent owner does not file a timely
statement under 37 C.F.R. 1.530(b), no reply by requester is permitted.

2. ☐ The request for reexamination is DENIED.

This decision is not appealable. 35 U.S.C. 303(c). Requester may seek review by petition to the
Commissioner within ONE MONTH from the mailing date hereof. 37 CFR 1.515(c). EXTENSIONS OF
TIME ONLY UNDER 37 CFR 1.183.

In due course, a refund under 37 CFR 1.26(c) will be made to requester (listed below if not patent owner)
☐ by Treasury check, ☐ by credit to Deposit Account No. _____
unless notified otherwise. 35 U.S.C. 303(c).

(Third party requester's correspondence address)

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A substantial new question of patentability affecting claims 1-24 of United States Patent Number 4,963,736 is raised by the request for reexamination.

Extensions of time under 37 CFR 1.136(a) will not be permitted in these proceedings because the provisions of 37 CFR 1.136 apply only to "an applicant" and not to parties in a reexamination proceeding. Additionally, 35 U.S.C. 305 requires that reexamination proceedings "will be conducted with special dispatch" (37 CFR 1.550(a)). Extension of time in reexamination proceedings are provided for in 37 CFR 1.550(c).

French raises a substantial new question of patentability as to claims 1-24 of the Douglas et al. patent. At lines 4 through 17 on page 20, the French application teaches that instead of the three quadrupole system discussed in the rest of the application, it is possible to arrange only two quadrupoles in series. According to the application, the first quadrupole in such a system should have only AC applied to it so that it acts as an ion guide to direct ions produced outside the system to the second quadrupole, which has both AC and DC applied to it so that it acts as a mass spectrometer. As the requester points out, the French application also teaches that such an AC-only quadrupole should have rods which are 4 inches long and be operated at pressures of 10^{-2} to 10^{-4} torr for a product of 0.1016 to 10.16×10^{-2} torr cm. The two Finnigan references teach that the collision energies of ions in collision cells which include AC-only quadrupoles should be varied between 0 and 30 volts. Such teachings were not present during the prosecution of the application which became the Douglas et al. patent. There is a substantial likelihood that a reasonable examiner would consider these teachings important in deciding whether or not the

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claims are patentable. Accordingly, French and the Finnigan references raise a substantial new question of patentability as to claims 1-24, which question has not been decided in a previous examination of the Douglas et al. patent. Therefore, all the claims of U.S. Patent No. 4,963,736 will be reexamined.

The patent owner is reminded of the continuing responsibility under 37 CFR 1.565(a), to apprise the Office of any litigation activity, or other prior or concurrent proceeding, involving Patent No. 4,963,736 throughout the course of this reexamination proceeding. See MPEP §§ 2207, 2282 and 2286.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Jack Berman whose telephone number is (703) 308-4849.

Jack I. Berman
JACK I. BERMAN
PRIMARY EXAMINER
GROUP 2500

jb

November 18, 1997

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